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[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1932.

A BILL

To provide for the incorporation of the Returned Sailors and Soldiers' Imperial League of Australia (New South Wales Branch); for the constitution of a Returned Sailors and Soldiers' (New South Wales) Board; for the registration of Associations using certain words; and for preference in employment to be given to returned sailors and soldiers; to prevent persons not returned sailors or returned soldiers from joining Associations using certain words; to repeal the Returned Soldiers and Sailors Employment Act, 1919; to amend the Arbitration Act, 1912, as amended, and certain other Acts; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Returned Sailors and Soldiers Act, 1932." Short title.

(2) The Returned Soldiers and Sailors Employment Act, 1919, is hereby repealed. Repeal of Returned Soldiers and Sailors Employment Act, 1919.

2. (1) In this Act, unless the context otherwise requires,— Definitions.

"Association" includes any persons, incorporated or unincorporated, combined together, expressly or impliedly, directly or indirectly, for any purpose whatever.

"Board" means the board appointed under this Act.

"Business" includes the functions or operations of the Crown or of any statutory authority or corporation.

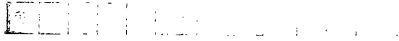
"Employer" means a person, corporation or association employing persons in any profession, business or industry, whether as principal or on behalf of any other person, corporation or association, and includes the Crown in right of the State of New South Wales and any statutory authority or corporation (whether representing the Crown in such right or otherwise) employing persons whether as principal or on behalf of another.

"Enlistment" means an engagement, whether by appointment, enlistment or otherwise, rendering a person liable to be employed on active service abroad in connection with the Great War; and "Enlist" has a corresponding meaning.

"Industrial inspector" means an inspector appointed in pursuance of the provisions of section sixty-seven of the Industrial Arbitration Act, 1912, as amended.

"Industrial

- “ Industrial Registrar ” means the industrial registrar appointed under the provisions of section sixty-five of the Industrial Arbitration Act, 1912.
- “ Labour exchange ” means a State labour exchange under the Industrial Arbitration Act, 1912, as amended.
- “ Manager, State labour exchanges ” means the officer appointed by the Governor, on the recommendation of the Public Service Board, to be manager, State labour exchanges, or should there not be an officer so appointed and designated the person who is in immediate control of the activities of the State labour exchanges constituted under Part X of the Industrial Arbitration Act, 1912, as amended.
- “ Married person ” includes widower, widow, or divorced person who has one or more children dependent upon him.
- “ Officer-in-charge ” means the officer-in-charge of a labour exchange, and includes a sub-agent of the labour exchanges appointed by the Minister administering the Industrial Arbitration Act, 1912, as amended.
- “ Prescribed ” means prescribed by this Act or by regulations made thereunder.
- “ Registered association ” means association registered in pursuance of this Act.
- “ Regulations ” means regulations made under this Act.
- “ Returned sailor or soldier ” means a resident of New South Wales, who was either resident or domiciled in Australia at the date of his enlistment and who enlisted prior to the eleventh day of November, one thousand nine hundred and eighteen, and who served during the Great War outside Australia or on a ship of war or on a vessel engaged in transporting troops within the zone of war—
 - (1) as a member of the naval or military expeditionary forces of the Commonwealth of Australia



Australia raised by the Commonwealth of Australia; or

- (2) as a member of the army medical corps nursing service or as an army nurse under in either case an enlistment or an acceptance or appointment by the Director-General of Medical Services for service outside Australia during the Great War; or
- (3) as a member of any naval or military expeditionary forces raised in the United Kingdom or any British Dominion if he served as such member outside the United Kingdom or British Dominion in which he enlisted.

“ Unmarried returned sailor or soldier ” does not include a widower, widow or divorced person who has one or more children dependent upon him.

(2) This Act shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment thereof would, but for this subsection, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Construction of Act.

Incorporation of Returned Sailors and Soldiers' Imperial League of Australia (New South Wales Branch).

3. The Governor is hereby empowered, with the advice of the Executive Council, by letters patent under the Great Seal to grant a Charter of Incorporation to the Returned Sailors and Soldiers' Imperial League of Australia (New South Wales Branch) with a common seal, to contain such provisions, powers, authorities and responsibilities as may be considered necessary or desirable for the purpose thereof, including provision for limiting the liability of the members and for the corporation to sue and be sued.

Incorporation of R.S. & S.I.L. of A. (N.S.W. Branch).

The

The Board.

4. (1) There shall be constituted a "Returned Sailors and Soldiers (New South Wales) Board" which shall carry into effect the objects and purposes of this Act, and have and discharge the powers, duties and functions conferred and imposed on the board by this Act and the regulations.

Returned Sailors & Soldiers (N.S.W.) Board.

(2) (a) Until the thirty-first day of December, one thousand nine hundred and thirty-three, the board shall consist of the President of the Returned Sailors and Soldiers' Imperial League of Australia (New South Wales Branch), the manager, State labour exchanges, and the Industrial Registrar.

Constitution of board.

(b) On and after the first day of January, one thousand nine hundred and thirty-four, the board shall consist of the three members referred to in paragraph (a) of this subsection and (subject to paragraph (c) of this subsection) an additional member elected under that paragraph by the associations registered in pursuance of this Act.

(c) The members of such associations shall, during the month of November, one thousand nine hundred and thirty-three, and in the month of November in each successive year, in the prescribed manner elect, by ballot, a member of one of such associations who shall, on and from the first day of January succeeding the date of his election, be an additional member of the board and hold office for a period of twelve months.

A notification by the board in the Gazette that a person named therein is a member of one of such associations and has been duly elected as an additional member of the board for the period stated therein shall be conclusive evidence of such facts:

Provided that in default of such election the board shall continue to be constituted of such three members as aforesaid.

For the purpose of this and the preceding paragraph of this subsection the Returned Sailors and Soldiers' Imperial League of Australia (New South Wales Branch) shall not be deemed an association.

(3)

Returned Sailors and Soldiers.

(3) The provisions of the Public Service Act, 1902, shall not apply to the appointment of the members of the board.

(4) A member shall not be entitled to receive any salary, fee, allowance or remuneration for his services as a member of the board.

(5) The Industrial Registrar shall be the chairman of the board and, in the event of an equality of votes, shall have, in addition to his original vote, a casting vote. Chairman.

(6) Two members, one of whom shall be the Industrial Registrar (or his deputy), shall constitute a quorum at each meeting of the board. Quorum.

(7) In the event of the President of the Returned Sailors and Soldiers' Imperial League of Australia (New South Wales Branch) or the manager, State labour exchanges, or the Industrial Registrar being suspended from such office he shall not act during such suspension as member or chairman of the board.

(8) In case of the illness, suspension or absence of the chairman or any other member of the board, the Governor may, notwithstanding any other provisions of this Act, appoint any person as the deputy of such member to act for such member during his illness, suspension or absence, and every such deputy shall, during the time he acts as deputy, have all the powers and authority of such member: Deputies.

Provided that any person appointed as the deputy of the President of the Returned Sailors and Soldiers' Imperial League of Australia (New South Wales Branch) or as the deputy of the additional member elected under paragraph (c) of subsection two of this section shall be appointed on the nomination to be made as prescribed of or on behalf of such league or of the associations registered in pursuance of this Act other than the said league.

(9) Subject to subsection six of this section no act or proceeding of the board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done or commenced there was a vacancy in the office of any member. Vacancy in office.

Associations.

Associations.

5. (1) An association which assumes or uses, or intends to assume or use, for any purpose whatever, alone or with any other word or in an abbreviated form the words "returned sailor" or "returned soldier" or any word which the Governor, by proclamation published in the Government Gazette, declares to be a privileged word may apply to the board within the time and in the form and in the manner prescribed for registration.

Registration of associations.

(2) The Governor may, by notification published in the Gazette, which he is hereby authorised to make, proclaim any word to be a privileged word for the purposes of this Act and may, in the like manner, revoke, alter or vary any such notification.

Privileged words.

(3) The board may register any such association if after inquiry it finds that all the members are returned sailors or soldiers and that the association is not ineligible for registration under subsection four of this section, and that there is no sufficient reason for refusing registration.

(4) The board shall not register an association if after inquiry it finds that the association—

(a) by its constitution or propoganda or otherwise advocates or encourages, or permits its members to advocate or encourage, revolution, violence, sabotage, seditious practices, or any purpose or object contrary to the law of the Commonwealth or the State; or

(b) supports, purports to support, advocates or encourages support, for any political party.

For the purposes of this subsection affiliation by an association with, or any support whatever by it to, a combination or association of persons which at any time after the commencement of this Act does any one of the acts mentioned in subparagraph (a) or (b) of this subsection shall, in the absence of proof to the contrary, be evidence that at all material times the association itself does such act.

(5)

(5) An association registered by the board shall not alter its constitution in respect of admission of persons to membership of such association or in respect of its objects (whether by addition or otherwise) except with the approval of the board in writing.

(6) The board may, after inquiry as prescribed, ^{Cancellation of registration.} cancel the registration of an association—

- (a) if the association commits a breach of subsection five of this section;
- (b) if the association knowingly admits to membership any person who is not a returned sailor or soldier;
- (c) if the board finds that the association has committed any of the acts mentioned in subparagraph (a) or (b) of subsection four of this section, and, in connection with this, the last paragraph of such subsection shall apply; or
- (d) for any reason which appears to the board to be good and sufficient.

(7) For the purpose of this section the expression ^{Further definition.} "returned sailor or soldier" shall, in addition to the persons comprised in the definition of that expression in section two of this Act, include such other persons as the board may determine to be returned sailors or soldiers, having regard to the services rendered to His Majesty or any ally of His Majesty by such persons during any war.

(8) (a) The validity of any proceeding or decision ^{Appeals.} of the board shall not be challenged except as provided in paragraph (b) of this subsection, and prohibition, certiorari or mandamus shall not lie against the board.

(b) An association may, in accordance with rules made under this subsection, appeal to the Industrial Commission of New South Wales against a decision of the board refusing or cancelling the registration of the association.

The Industrial Commission shall hear such appeal and may confirm or reverse or alter the decision of the board.

The board shall be a party to such appeal and shall give effect to the decision of the Industrial Commission.

The Industrial Commission of New South Wales may make rules prescribing the time within which and the manner

manner in which such appeals may be made, the notices to be given, the security (if any) to be lodged for costs of any such appeals, the procedure on such appeals and generally regulating such appeals.

(9) In any proceedings a certificate purporting to be signed by the chairman or secretary of the board that any association mentioned therein is not registered shall be evidence that such association is not registered in pursuance of this Act.

Application for employment by returned sailors and soldiers.

6. (1) Any returned sailor or soldier desiring employment may apply in the prescribed manner and form to any labour exchange, and such application shall indicate in order of preference the occupation in which such applicant desires to be employed and shall contain such other particulars as are prescribed. Application to labor exchange for employment.

(2) The officer-in-charge on being satisfied that the applicant is a returned sailor or soldier (not excluded from the benefits of this Act) shall register the applicant as a returned sailor or soldier.

(3) The officer-in-charge may, in his discretion, register a returned sailor or soldier for employment in an occupation different from that for which application is made.

(4) The board shall assist returned sailors or soldiers to obtain employment.

(5) A returned sailor or soldier shall, notwithstanding any other provision of this Act, be excluded from the benefits of this Act— Exclusion from benefits of Act.

(a) if since the termination of his enlistment or engagement he has been guilty of dishonesty or serious misconduct; or

(b) if, in the opinion of the board, his service under his enlistment or engagement (whether military, naval or other service) was of an unsatisfactory nature:

Provided

Provided that no returned sailor or soldier shall be so excluded on the grounds of such unsatisfactory service unless and until the board shall have formed and recorded such opinion as prescribed.

Preference.

7. (1) Notwithstanding anything contained in the Industrial Arbitration Act, 1912, or in any Act amending the same, or in any award or industrial agreement made thereunder, every employer shall, subject to this section and to section eight hereof, give preference in employment in any profession, business or industry to a returned sailor or soldier who is capable of effectively performing the duties of such employment, and applies in writing for such employment, and is not excluded from the benefits of this Act, as against any other person offering his services at the same time:

Preference to returned sailors or soldiers.

Provided that preference in employment prescribed by this section shall not apply in favour of—

- (a) a returned sailor or soldier, as against a person who was employed by the employer at any time within three months prior to the date when such returned sailor or soldier's services were offered;
- (b) an unmarried returned sailor or soldier, as against a married person offering his services at the same time;
- (c) a particular returned sailor or soldier, as against another returned sailor or soldier who is not excluded from the benefits of this Act.

(2) The Local Government Act, 1919, is amended by omitting subsection three of section ninety-five.

The provisions of subsection one of this section and of section eight shall apply to appointments by councils of servants for the purpose of the Local Government Act, 1919, or any other Act.

(3) In any proceedings for not giving preference in employment to a returned sailor or soldier the onus shall rest upon the person charged of proving that a returned

returned sailor or soldier who had made written application for employment or whose services were offered to an employer under section eight was not capable of effectively performing the duties of the employment in question.

Application by employer.

8. (1) Every employer desiring to obtain employees may himself arrange for the employment of returned sailors or soldiers, but otherwise shall at least eighty hours before engaging employees apply to the labour exchange nearest to the place at which the employees are required, if there be a labour exchange within twenty miles of that place, to be provided with applicants who are returned sailors or soldiers.

Duty of employer to apply to labour exchange.

The application by the employer shall be in the form and contain such particulars as are prescribed and the officer-in-charge shall forthwith forward a copy of such application to the board.

The officer-in-charge shall give preference in opportunity of employment to returned sailors and soldiers registered for employment in the profession, business or industry in respect of which the application is made and who are available for employment.

(2) Any returned sailor or soldier whose services are offered to the employer in answer to an application under this section shall be entitled to preference under section seven of this Act as if he had applied in writing for the employment at the same time as any other person offered his services, and such returned sailor or soldier shall for such purposes be deemed to have applied in writing for the employment at that time.

(3) If within seventy-two hours after the receipt of an application under subsection one of this section sufficient and suitable applicants for employment are not provided by the officer-in-charge the employer may without prejudice to subsection one of section seven engage employees without further communication with a labour exchange, but such employer shall notify the board to that effect.

(4)

(4) This section shall not apply to cases in which owing to the nature or urgency of the employment it is not reasonably practicable for an employer to make application under the section.

(5) In any proceeding against an employer in respect of a breach of this section, the onus shall be upon him of proving the absence of such reasonable practicability.

Punishment of offences.

9. (1) Offences against this Act or against regulations made thereunder may be prosecuted by an industrial inspector authorised by the board generally or in any particular case or by any person with the consent of the board to be given in any particular case. Prosecution of offences.

The board's authority for any such prosecution either generally or in particular cases or the board's consent to any such prosecution in a particular case may be proved by the production of a certificate to that effect purporting to be signed by the chairman of such board or by any person purporting to be secretary of such board.

(2) Any person guilty of an offence against any of the provisions of this Act shall be liable on summary conviction before a stipendiary or police magistrate or any two justices of the peace, to a penalty not exceeding *one hundred* pounds or to a term of imprisonment with or without hard labour not exceeding *six* months. Penalty for offences against Act.

Offences.

10. (1) Any person who contravenes any of the provisions of this Act or of the regulations made thereunder shall be guilty of an offence. Contravention of Act.

(2) Any person who aids, abets, counsels or procures the commission of an offence against this Act or against the regulations thereunder shall be guilty of the offence, aided, abetted, counselled or procured and shall be charged accordingly. Aiders and abettors.

(3) Any person who in any manner whatsoever intimidates, threatens or coerces or attempts to intimidate, threaten Intimidation.

threaten or coerce any employer with intent to deter such employer from employing a returned sailor or soldier, shall be guilty of an offence.

(4) (a) Any person who is not a returned sailor or soldier as defined hereunder or as defined in section two or subsection seven of section five, and who joins, or becomes or continues a member of, or represents himself to be or acts as a member of any association which assumes or uses, alone or with any other word or in an abbreviated form, as part of its name or otherwise in the course of or for its business or operations the words " returned sailor " or " returned soldier " or any word which the Governor has proclaimed to be a privileged word shall be guilty of an offence.

Persons not returned sailors or soldiers joining association using such words.

(b) For the purposes of this subsection—

(a) " returned sailor " means a person who has served outside Australia during any war as a member of any naval force raised in Australia or in any other part of the British Empire, or during the Great War, as a member of the naval forces of an ally of Great Britain; and

(b) " returned soldier " means a person who has served outside Australia during any war as a member of any military force raised in Australia or in any other part of the British Empire, or, during the Great War, as a member of the military forces of any ally of Great Britain.

(c) In any prosecution under this subsection proof that the person charged has attended meetings of the association or spoken publicly in advocacy of or otherwise acted in furtherance of the association or its objects or operations or distributed printed or multi-graphed matter of or for the association shall in the absence of proof to the contrary be evidence that at all times material to the case such person joined or became or continued or represented himself to be or acted as a member of the association.

(5) In any proceedings for an offence against this Act or the regulations the averment of the prosecutor that the defendant is not a returned sailor or a returned soldier

See Commonwealth Defence Act 1903-1917, s. 80A (3).

soldier or that the defendant or any person employed is not a returned sailor or soldier shall be deemed to be proved in the absence of proof to the contrary.

Regulations.

11. (1) (a) The Governor may make regulations to carry out and give effect to or which are necessary or convenient to carry out or give effect to the provisions of this Act and may provide therein for the imposition of a penalty not exceeding *twenty* pounds for any breach thereof. Regulations.

(b) Any penalty imposed by the regulations may be recovered on summary conviction, before a stipendiary or police magistrate, or any two justices of the peace.

(2) Without prejudice to the generality of the foregoing provisions, the regulations may provide for—

- (a) the privileges, immunities, powers, authorities and responsibilities of registered associations;
- (b) forms for informations for offences against this Act or the regulations; and an information in a form provided by the regulations shall be a good and sufficient information in law;
- (c) forbidding persons not members of the Returned Sailors and Soldiers' Imperial League of Australia (New South Wales Branch) or persons not members of a registered association from wearing or using or displaying the badge of such Returned Sailors and Soldiers' Imperial League of Australia (New South Wales Branch) or of such registered association or from otherwise representing themselves to be members of the Returned Sailors and Soldiers' Imperial League of Australia (New South Wales Branch) or of such registered association;
- (d) the procedure and taking of evidence in proceedings before the board, the certification of the board's acts, authorities and proceedings and the

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the admissibility in legal proceedings of the certificates of the board's acts, authorities and proceedings.

(3) Such regulations shall—

- (i) be published in the Gazette;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (iii) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after such regulations have been laid before such House, disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.
